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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,099	11/19/2003	Melissa Dee Aquino	7346C	7304

27752 7590 06/17/2005

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/717,099

Applicant(s)

AQUINO ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Prosecution Application***

1. The Request for Continued Examination (RCE) filed on 5/31/2005 under 37 CFR 1.114 based on parent Application No. 10/717,099 is acceptable and a RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 and 9-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "the odor absorbing composition" lacks antecedent basis. The phrases "said odor-neutralizing composition is selected ..." in claim 7 and "said odor-neutralizing composition comprises: ..." in claim 12 are inaccurate and indefinite because claim 1 recites "the odor absorbing composition comprises cyclodextrin and a chelant". It appears that claims 7 and 12 are further defined the composition of the odor.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-7, 9-13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of the Trinh et al. (5,429,628; hereinafter Trinh'628). Caggiano discloses a flexible container for dry food-stuffs having an opening for receiving the contents comprising a bag having liquid impervious walls (3) with inner and outer surfaces, an absorbent material (4) disposed on the inner surface of the container may be impregnated with a desiccant such as calcium chloride, silica gel or any other suitable desiccant material (column 4, lines 45-50) which is considered equivalent to an odor-neutralizing composition such as silica as claimed and a liquid pervious liner (5, 6) positioned adjacent the absorbent material. Caggiano further discloses the peripheral edges of the bag are sealably attached together by any suitable means such as heat sealing or an adhesive.

Kannankeril discloses a container having an opening for receiving the contents (C) comprising a bag (10) having liquid impervious walls (27, 28) with inner and outer surfaces, an absorbent material (35, 36) disposed on the inner surface of the container may be impregnated with a bacteriastatic agent such as a chlorine solution or common household chlorine bleach (column 3, lines 24-33) which is considered equivalent to an odor-neutralizing composition as claimed and a liquid pervious liner (33, 34, 40, 41) positioned adjacent the absorbent material. Kannankeril further discloses a closure means (45) comprises cooperatively interlocking elongate male and female plastic strips or other suitable closures such as adhesive flaps or other liquid impervious closures. Caggiano or Kannankeril also discloses the other claimed limitations except for the odor-neutralizing composition comprises a cyclodextrin and a chelant.

Trinh'628 shows an absorbent article having an odor control system comprising the combination of an effective amount of cyclodextrin with other odor controlling materials such as chelating

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agents/chelant, zeolite or antimicrobial compound and others (see abstract, column 16, lines 48-61 and claim 20). It would have been obvious to one having ordinary skill in the art in view of Trinh'628 to modify the odor-neutralizing composition of Caggiano or Kannankeril so the odor-neutralizing composition comprises a cyclodextrin and a chelant for better controlling the odor. As to claims 9 and 18, with respect to the range of the composition, it would have been obvious to one having ordinary skill in the art in view of Caggiano or Kannankeril as modified to deposited upon the absorbent material in a range as specify in the claims because it is depended on the size of the container and a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

As to claim 15, Caggiano or Kannankeril fails to disclose the absorbent material being discontinuously deposited upon the inner surface of the container in lieu of continuously deposited upon the inner surface of the container, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container of Caggiano or Kannankeril so the absorbent material being discontinuously deposited upon the inner surface of the container instead of continuously deposited upon the inner surface of the container to reduce the cost of manufacture.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view The Official Notice and Siklosi et al. (6,759,006; hereinafter Siklosi'006). Caggiano discloses the container as above having all the limitations of the claims except for a closure flap being connected to at least one of the liquid impervious walls. Kannankeril discloses the container as above having all the limitations of the claims.

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Kannankeril further discloses other suitable closures such as adhesive flaps or other liquid impervious closures may be suitable (column 3, lines 15-16) except for a closure flap being connected to at least one of the liquid impervious walls. Official Notice is taken of the old and conventional practice of providing a bag having a closure flap for sealing an opening of the bag. Siklosi'006, is cited by way of example only, shows a bag having an opening with a closure flap (5) attached to an outer surface of the bag for closure the opening (Figure 6). It would have been obvious to one having ordinary skill in the art in view of Official Notice and Siklosi'006 to modify the container of Caggiano or Kannankeril so the container includes a closure flap is connected to at least one of the liquid impervious walls for better opening and closing the container.

### ***Response to Arguments***

Applicant's arguments with respect to 5/31/2005 have been considered but are deemed to be moot in view of the new grounds of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
June 10, 2005



Luan K. Bui  
Primary Examiner